

**BISMARCK PLANNING & ZONING COMMISSION  
MEETING MINUTES  
July 26, 2017**

The Bismarck Planning & Zoning Commission met on July 26, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Vernon Laning, Doug Lee, Mike Schwartz, Mike Seminary, Lisa Waldoch and Wayne Yeager.

Commissioners Susan Axvig, Brian Bitner, Mike Donahue and Gabe Schell were absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Will Hutchings – Planner, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Brady Blaskowski – Building Official, Andrew Stromme- Planning Intern, Hilary Balzum – Community Development Administrative Assistant, Charlie Whitman – City Attorney and Jason Hammes – Assistant City Attorney.

Chairman Yeager welcomed and introduced Andrew Stromme as the Planning Intern for Community Development. He said Mr. Stromme will be presenting a public hearing item later on in the meeting.

Chairman Yeager asked Ms. Wollmuth to stand and be recognized for her accomplishment in obtaining her American Institute of Certified Planners (AICP) designation. Ms. Wollmuth was applauded and congratulated for her achievement by those in attendance

**MINUTES**

Chairman Yeager called for consideration of the minutes of the June 28, 2017 meeting.

**MOTION:** Commissioner Laning made a motion to approve the minutes of the June 28, 2017 meeting, as presented. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**CONSIDERATION**

- A. LOTS 16-20, BLOCK 4, SOUTH MEADOWS ADDITION (TO BE REPLATTED AS SOUTH MEADOWS ADDITION SECOND REPLAT) – ZONING CHANGE**
- B. HR SUBDIVISION – PRELIMINARY PLAT AND ZONING CHANGE**
- C. SECTIONS 14-03-06 (INCIDENTAL USES), 14-04-01 (RR RESIDENTIAL DISTRICT) AND 14-04-01.1 (RR5 RESIDENTIAL DISTRICT) AND 14-04-17 (A AGRICULTURAL DISTRICT) – ZONING ORDINANCE TEXT AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda items:

- A. Lots 16-20, Block 4, South Meadows Addition (to be replatted as South Meadows Addition Second Replat) – Zoning Change
- B. HR Subdivision – Preliminary Plat and Zoning Change
- C. Sections 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District) and 14-04-01.1 (RR5 Residential District) and 14-04-17 (A Agricultural District) – Zoning Ordinance Text Amendment

**MOTION:** Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve consent agenda items A, B and C, granting tentative approval or calling for public hearings on the items, as recommended by staff. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

Apple Creek Township Supervisor Paul Zent joined the meeting at this time.

**PUBLIC HEARING – RURAL RESIDENTIAL LOT SPLIT  
PART OF LOT 10, BLOCK 1, BARBIE’S NEIGHBORHOOD SUBDIVISION**

Chairman Yeager called for a public hearing on a rural residential lot split for the South 363.3 feet of Lot 10, Block 1, Barbie’s Neighborhood Subdivision. The property is located east of Bismarck, south of East Main Avenue/County Highway 10 and east of 52nd Street NE.

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a rural residential lot split have been met.
2. The resulting parcels would meet the minimum lot width, depth and area requirements of the zoning district in which it is located.
3. The Apple Creek Township Board of Supervisors has been informed for the proposed lot split.
4. The proposed lot split is compatible with adjacent land uses.
5. The proposed lot split and the resulting parcels would not place an undue burden on existing public services and facilities.
6. The proposed lot split complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.



7. The lot split is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed lot split would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the findings contained in the staff report, staff recommends approval of the rural residential lot split for the South 363.3 feet of Lot 10, Block 1 Barbie's Neighborhood Subdivision, with the understanding that the lot split will not be final until the required plats of irregular description are prepared, signed by the County Engineer, and recorded with the Burleigh County Recorder's Office.

Commissioner Seminary asked for a description of auditors lots and what they are used for. Mr. Nairn said they are plats of irregular description and are an instrument used for taxation and for the transfer of property, which distinguishes them from a plat or subdivision.

Chairman Yeager opened the public hearing.

Donovan Voeller, 225 52<sup>nd</sup> Street NE, said he lives down the road from this property and would not have any concerns as long as it is only being split in order for there to be another house built. He said there was a previous proposal by an adjacent owner to annex this lot to serve a new urban development proposed behind his property, which was denied. He said he was surprised to see that now they want to split the lot and the newly created lot could very easily serve as an access or utility easement to allow for further urban development to the east. He said he likes low-density residential lots and has no desire to become part of the City. He said if this request is approved, the owner could sell the other lot to a developer who could in turn build a road to serve the proposed development.

Mr. Nairn said Mr. Voeller is correct in that an annexation and rezoning request was proposed but staff did not support it, so it was never brought before this Commission. He said the Future Land Use Plan has designated this area as rural residential and splitting the lot would not change the zoning, so any type of urban redevelopment would have to be approved through the appropriate channels.

Mr. Zent said Apple Creek Township does not have any plans for additional roads to be built in this location either.

Mr. Kinnischtzke said he has children who would like to someday have homes built so that is what he had the property surveyed for. He said building a house for his kids on the new lot would also stop any access easements to the property to the east in the future as well.

There being no further comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the rural residential lot split for the South 363.3 feet of Lot 10, Block 1 Barbie's Neighborhood Subdivision, with the understanding that

the lot split will not be final until the required plats of irregular description are prepared, signed by the County Engineer, and recorded with the Burleigh County Recorder's Office. Commissioner Schwartz seconded the motion and the request was unanimously approved with Mr. Zent and Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE**  
**TRACT 205 OF THE NW1/4 OF SECTION 2, T138N/R80W/CITY LANDS**

Chairman Yeager called for a public hearing on a zoning change from the P-Public zoning district to the MA-Industrial zoning district for Tract 205 of the NW1/4 of Section 2, T138N-R80W/City Lands. The property is located in east Bismarck, between East Main Avenue and the BNSF rail line, along the east side of South 26th Street.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the P – Public zoning district to the MA – Industrial zoning district for Tract 205 of the NW¼ of Section 2, T138N-R80W City Lands.



Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the zoning change from the P – Public zoning district to the MA – Industrial zoning district for Tract 205 of the NW¼ of Section 2, T138N-R80W City Lands. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – ZONING CHANGE**

#### **LOTS 1-6, BLOCK 81, ALL OF BLOCK 88, AND ALL OF THE VACATED AVENUE F ADJACENT TO BLOCKS 81 AND 88, MONSON'S SUBDIVISION AND LOTS 9-24, BLOCK 81, MCKENZIE AND COFFIN'S ADDITION (ST. MARY'S CENTRAL HIGH SCHOOL PROPERTY)**

Chairman Yeager called for a public hearing on a zoning change from the RM30-Residential zoning district to the Conditional RT-Residential zoning district for Lots 1-6, Block 81, all of Block 88, and all of the vacated Avenue F adjacent to Blocks 81 and 88, Monson's Subdivision and Lots 9-24, Block 81, McKenzie and Coffin's Addition (St. Mary's Central High School Property). The property is located in central Bismarck, between East Boulevard Avenue and East Avenue E, along the west side of North 3rd Street.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the RM30 – Residential zoning district and the RT – Residential zoning district to the Conditional RT – Residential zoning district for Lots 1-6, Block 81, all of Block 88, and all of the vacated Avenue F adjacent to Blocks 81 and 88, Monson's Subdivision and Lots 9-24, Block 81, McKenzie and Coffin's Addition with the following conditions:

1. The development of the site is limited to campus uses associated with educational and religious facilities.
2. The overall heights of buildings are limited to three stories in height.
3. All other development standards shall be as outlined in Section 14-04-08, RT – Residential District, of the City Code of Ordinances.

Commissioner Laning asked what the procedure would be in the event somebody wanted to recover the vacated Avenue F. Ms. Wollmuth said the property would have to be replatted and a standard size Avenue F right-of-way would have to be dedicated.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning change from the RM30 – Residential zoning district and the RT – Residential zoning district to the Conditional RT – Residential zoning district for Lots 1-6, Block 81, all of Block 88, and all of the vacated Avenue F adjacent to Blocks 81 and 88, Monson's Subdivision and Lots 9-24, Block 81, McKenzie and Coffin's Addition with the following conditions: 1. The development of the site is limited to campus uses associated with educational and religious facilities; 2. The overall heights of buildings are limited to three stories in height; and 3. All other development standards shall be as outlined in Section 14-04-08, RT – Residential District, of the City Code of Ordinances. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.



**PUBLIC HEARING – ZONING CHANGE  
LOT 2, BLOCK 1, WACHTER’S 17<sup>TH</sup> ADDITION AND LOT 1, BLOCK 1,  
WACHTER’S 18<sup>TH</sup> ADDITION**

Chairman Yeager called for a public hearing on a zoning change from the MA – Industrial zoning district to the CG – Commercial zoning district on Lot 2, Block 2, Wachter’s 17th Addition and Lot 1, Block 1, Wachter’s 18th Addition. The property is located in south Bismarck, along the south side of Bismarck Expressway between University Drive and South 12th Street.

Ms. Lee gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Lee said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the MA – Industrial zoning district to the CG – Commercial zoning district on Lot 2, Block 2, Wachter’s 17th Addition and Lot 1, Block 1, Wachter’s 18th Addition.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to recommend approval of the zoning change from the MA – Industrial zoning district to the CG – Commercial zoning district on Lot 2, Block 2, Wachter’s 17th Addition and Lot 1, Block 1, Wachter’s 18th Addition. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE**

**LOT 6, BLOCK 3, SLEEPY HOLLOW HEIGHTS 2ND ADDITION AND LOT 9, BLOCK 4, SLEEPY HOLLOW HEIGHTS 5TH ADDITION, AND LOT 1, BLOCK 1, SLEEPY HOLLOW HEIGHTS 2ND ADDITION AND LOT 8 AND AUDITOR’S LOT A OF LOT 10, BLOCK 4, SLEEPY HOLLOW HEIGHTS 5TH ADDITION (3032 SLEEPY HOLLOW LOOP AND 3100 SLEEPY HOLLOW LOOP)**

Chairman Yeager called for a public hearing on a zoning change from the R5 – Residential zoning district and the R10 – Residential zoning district to the R10 – Residential zoning district for Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor’s Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition. The property is located in northeast Bismarck, south of East Divide Avenue, south of North 33rd Street, along the west side of Sleepy Hollow.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.



8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the the R5 – Residential zoning district and the R10 – Residential zoning district to the R10 – Residential zoning district for Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition.

Commissioner Atkinson asked how wide the R5-Residential portion of this property is now. Ms. Wollmuth said it was originally intended for a private drive so each half (Lot 8 and Lot 9) is around 15 feet wide.

Chairman Yeager opened the public hearing.

Written comments in opposition to this request are attached as Exhibit A.

There being no further comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning change from the R5 – Residential zoning district and the R10 – Residential zoning district to the R10 – Residential zoning district for Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition. Commissioner Laning seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – SPECIAL USE PERMIT (DRIVE-THROUGH) LOT 2B OF LOT 2, BLOCK 1, SUNRISE TOWN CENTRE ADDITION**

Chairman Yeager called for the public hearing on a request for a special use permit to allow the operation of a drive-through in conjunction with a new restaurant (Burger King) on Lot 2B of Lot 2, Block 1, Sunrise Town Centre Addition (3102 Yorktown Drive). The property is located in northeast Bismarck, north of East Century Avenue, between Centennial Road and Yorktown Drive.

Mr. Stromme gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.

2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use permit is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Stromme said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow the operation of a drive-through in conjunction with a new restaurant on Lot 2B of Lot 2, Block 1, Sunrise Town Centre, with the following condition:

1. Development of the site must generally conform to the site plan submitted with the application.

Commissioner Atkinson said it does not appear that any access to the restaurant would be off of Centennial and asked if that is correct. Mr. Stromme said that is correct.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the special use permit to allow the operation of a drive-through in conjunction with a new restaurant on Lot 2B of Lot 2, Block 1, Sunrise Town Centre, with the following condition: 1. Development of the site must generally conform to the site plan submitted with the application. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.



**PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING)  
LOT 2, BLOCK 3, HARVEST GROVE THIRD SUBDIVISION**

Chairman Yeager called for a public hearing on a request for a special use permit to increase the maximum area of accessory buildings on a lot to 3,200 square feet on Lot 2, Block 3, Harvest Grove Third Subdivision. The property is located north of Bismarck, west of US Highway 83, north of 84th Avenue NE, along the east side of Caraway Drive.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the special use permit to increase the area of accessory buildings on a lot to 3,200 square feet for Lot 2, Block 3, Harvest Grove Third Subdivision.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the special use permit to increase the area of accessory buildings on a lot to 3,200 square feet for Lot 2, Block 3, Harvest Grove Third Subdivision. Commissioner Laning seconded the motion and the request was unanimously approved Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT  
SECTIONS 14-03-06 (INCIDENTAL USES), 14-04-01 (RR RESIDENTIAL  
DISTRICT) AND 14.04-01.1 (RR5 RESIDENTIAL DISTRICT) RELATING TO THE  
KEEPING OF CHICKENS**

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to the keeping of chickens in the rural residential districts.

Mr. Hutchings explained that at the May 24, 2017 meeting of the Planning and Zoning Commission, staff indicated that the Planning Division has received requests to allow chickens in rural residential zoning districts, and the general consensus of those present at the meeting was for staff to investigate and draft an ordinance amendment for consideration. He said a draft ordinance was considered and a public hearing was called for at the June 28, 2017 meeting of the Planning and Zoning Commission.

Mr. Hutchings then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Hutchings said based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Sections 14-03-06 (Incidental Uses), 14-04-01 (RR - Residential District) and 14-04-01.1 (RR5 - Residential District) of the Bismarck Code of Ordinances related to the keeping of chickens in rural residential zoning districts, as presented.

Chairman Yeager opened the public hearing.

Mr. Zent said this has been an allowable use in Apple Creek Township for quite some time and even with allowing roosters they have not had any issues.

Scott Harmstead, 2840 Keith Drive, said they have chickens and some of his neighbors even have other animals, such as alpacas. He said it seems common sense to allow chickens in these zoning districts and asked for clarification on other animals allowed in the ETA.



Mr. Hutchings said the zoning ordinance does allow animal husbandry for educational purposes only, as long as the site remains clean and does not become a nuisance. He added that a certain number of horses are also allowed beyond educational purposes.

Ms. Lee said the zoning ordinance was changed to allow that use for educational purposes without a maximum number of animals. She said if it goes beyond educational purposes it would be considered a zoning violation.

Mr. Harmstead thanked Planning staff for working on this ordinance and said he fully supports it.

Mr. Zent said Apple Creek Township also has a maximum number of animals based on acreage and feels it works well and is better controlled.

There being no further comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning ordinance text amendment for Sections 14-03-06 (Incidental Uses), 14-04-01 (RR - Residential District) and 14-04-01.1 (RR5 - Residential District) of the Bismarck Code of Ordinances related to the keeping of chickens in rural residential zoning districts, as presented. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT  
SECTIONS 14-03-08 (SPECIAL USES) AND 14-04-08 (RT RESIDENTIAL  
DISTRICT) RELATING TO DRIVE-IN/DRIVE-THROUGH RETAIL OR SERVICE  
ESTABLISHMENTS**

Chairman Yeager called for a public hearing on a zoning ordinance text amendment relating to Special Uses, the RT Residential District and Drive-In/Drive-through Facilities for Banks.

Ms. Lee explained that the proposed amendment would allow drive-in/drive-through facilities for banks in the RT – Residential zoning district if located adjacent to an arterial roadway.

Ms. Lee explained that there are several areas within the community that are zoned RT – Residential and located adjacent to an arterial roadway. She said banks are currently allowed as a permitted use within the RT – Residential zoning district, but a drive-in/drive-through facility for a bank is not allowed in that zoning district. Ms Lee added that most, if not all, banks have a need for drive-in/drive-through facilities, so it seems reasonable to allow such facilities in locations adjacent to arterial roadways. She said with the advent of on-line banking, the presence of a drive-in/drive-through facility for a bank is expected to have less traffic than in the past and would have less impact on adjacent uses, especially if they are only allowed adjacent to an arterial roadway.

Ms. Lee then gave the following findings related to land use:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Section 14-03-08 (Special Uses) and Section 14-04-08 (RT – Residential District) of the City Code of Ordinances, as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to recommend approval of the zoning ordinance text amendment for Section 14-03-08 (Special Uses) and Section 14-04-08 (RT – Residential District) of the City Code of Ordinances, as presented. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.


## **OTHER BUSINESS**

There was no other business to discuss at this time.

## **ADJOURNMENT**

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:39 p.m. to meet again on August 23, 2017.

Respectfully submitted,

  
Hilary Balzum  
Recording Secretary





Wayne Yeager  
Chairman



## Community Development Department

Dear Property Owner:

Please be advised that the Bismarck Planning & Zoning Commission will be conducting a public hearing on Wednesday, July 26, 2017, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota, which may be of interest to you.

City of Bismarck is requesting a zoning change from the R5-Residential and R10-Residential zoning districts to the R10-Residential zoning district for Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition. The property is located in northeast Bismarck, south of East Divide Avenue, west of North 33rd Street, along the west side of Sleepy Hollow Loop.

The existing zoning allows the following major uses: R5-Residential – single-family dwellings, up to 5 units per acre; and R10-Residential – single and two-family dwellings, up to 10 units per acre.

The proposed zoning change would allow two-family dwellings, up to 10 units per

R10-Residential – single and

A map showing the location involved in

information.

At the hearing, the Bismarck Planning & interested persons to be heard with respect to comments regarding this request prior to the hearing. The Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701- 222-6450, or e-mail - [planning@bismarcknd.gov](mailto:planning@bismarcknd.gov).

provide an opportunity for all interested persons may also submit written

The agenda packet for the meeting, which will include a staff report for this request, will be posted online at [www.bismarcknd.gov](http://www.bismarcknd.gov), under Agendas and Minutes/City Planning and Zoning Commission by the end of the day on Friday, July 21st. The meeting will also be aired live on Government Access – Cable Channel 2 and can be viewed on-line at [freetv.org](http://freetv.org) under Government Access/Bismarck Planning and Zoning Commission.

Additional information on this request can be found by going to our on-line Land Records Management System, eTRAKiT, at <http://www.etrakit.bismarcknd.gov> and searching for project number ZC2017-013.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department ~ Planning Division

JW/hlb

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Enc: Location Map

